the whole was to be sold and equally divided among his seven children. A judgment was later rendered against Edward Kendall, a son of the testator, during the lifetime of the mother, and execution issued thereon against the undivided one-seventh interest of Edward in the realty devised by his father. *Held,* The lien could not attach thereon. *Cropper* v. *Gaar's Exr.* (Ky. 1912), 151 S. W. 913.

It is a universal principle that an attachment may operate only on the right of the defendant existing when it is made, *Cox* v. *Milner,* 23 Ill. 422; *Morrow* v. *Graves,* 77 Cal. 218. The attachment secured to the plaintiff only the interest of the defendant in the property subject to all valid claims upon it, *Smith* v. *Menonimee Circuit Judge,* 53 Mich. 560; *Cooley* v. *Transfer Co.,* 53 Minn. 327; *Howe* v. *Jones,* 57 Ia. 130. In short the plaintiff steps into the defendant's shoes and acquires precisely his rights, *Dawson* v. *Iron Range & Ry. Co.,* 97 Mich. 33; *Chicago Rolling Mill* v. *St. Louis, etc. Co.,* 152 U. S. 596. Also it is held that the unassigned distributive share of an heir of a deceased person in an undivided interest in land may be levied on, *Byerly* v. *Sherman,* 126 Ia. 447; *Pitts* v. *Hendrix,* 6 Ga. 452; *Wheeler* v. *Bowen,* 20 Pick. 563. In *Trowbridge* v. *Cunningham,* 63 Kan. 847, under a statute giving the surviving wife one-half of the real estate of the husband, it is held that the undivided share thus alloted may be levied on and sold for her debts. See also, *Hardy* v. *Wallis,* 103 Ill. App. 141; *Lippincott* v. *Smith,* 69 N. J. Eq. 787; and *Brightman* v. *Morgan,* 111 Ia. 481. Property in which the defendant has a vested legal right is often held not liable because other persons have an interest therein which might be jeopardised and "under this head might be mentioned future estates in chattels," *Smith* v. *Niles,* 20 Vt. 315, 49 Am. Dec. 782. And so also with estates subject to a mortgage, *Moore* v. *Murdock,* 26 Cal. 515; *Sargent* v. *Carr,* 12 Me. 396. So also with future contingent estates, which "are not estates at all, but only possibilities of future acquisition, and for that reason are not liable to the processes," *Ducker* v. *Burnham,* 146 Ill. 9, 37 Am. St. Rep. 135. The equitable doctrine that "equity looks on that as done which ought to be done," steps into the principal case, and consequently the interest of Edward is considered as personalty, not as realty, and therefore not subject to the judgment lien on realty, *Scott* v. *Mewhirter,* 49 Ia. 487; *Dunham* v. *Cox,* 10 N. J. Eq. 437, 64 Am. Dec. 460; *McGehee* v. *Cherry,* 6 Ga. 550.

GIFTS CAUSA MORTIS—CONSTRUCTIVE DELIVERY—BANK STOCK.—Decedent, during a protracted illness, was cared for by his brother's minor step-daughter, to whom he entrusted the combination to his safe in which his valuable papers were kept. Shortly before his death and in contemplation of it, he told her that she was to have the bank stock in the safe as a reward for her services, and she agreed. She never took manual possession of the certificates, and after decedent's death his property including the stock came into the hands of the administrator who refused to give it up. *Held,* that the girl's knowledge of the combination of the safe rendered manual delivery unnecessary, and that the transaction constituted constructive delivery of

the stock such as to make her absolute owner. *Teague* v. *Abbott,* (Ind. App. 1912) 100 N. E. 27.

The requisites of a valid gift *mortis causa* have been given as: (1) it must be made in contemplation of death; (2) it must be the intention of the owner to part with the property; (3) a delivery appropriate with the thing given must be made; (4) death must ensue as a result of the illness which prompted the gift. See WILLIAMS, EXECUTORS, p. 770 et seq. The only question raised in the principal case was whether there was a delivery of the bank stock. It was insisted by the early chancellors that there must be actual delivery of the thing. *Ward* v. *Turner,* 2 Ves. Sr. 431; *Drury* v. *Smith,* 1 P. Wms. 404; *Snellgrove* v. *Bailey,* 3 Atk. 314; *Parish* v. *Stone,* 14 Pick. 198. But ever since *Jones* v. *Selby,* Prec. in Ch. 300, the delivery of that which would give the donee the power to demand the subject of the gift, or the exclusive power to reduce it to possession, has been held a sufficient delivery of the subject of the gift, as exchequer tallies, *Jones* v. *Selby, supra;* a key to a trunk or a wine-cellar, *Kenistons* v. *Sceva,* 54 N. H. 24; *Meach* v. *Meach,* 24 Vt. 591; *Devol* v. *Dye,* 123 Ind. 321; *Wilcox* v. *Mattison,* 53 Wis. 23; *Debinson* v. *Emmons,* 158 Mass. 592; *Newman* v. *Bost,* 122 N. C. 524; *Thomas* v. *Lewis,* 89 Va. 1. It has been held that if the donee is already in possession of the subject of the gift, no delivery at all will be necessary to constitute a valid gift *causa mortis. Cain* v. *Moon* (1896) 2 Q. B. Div. 283; even when such possession is only constructive, *Stevens* v. *Stevens,* 2 Hun. 470, but mere accessibility to the donee has never yet been held to render delivery unnecessary. It is by no means possible to reconcile all the decisions, but the present decision must be classed as an extremely liberal one, along with *Hatcher* v. *Buford,* 60 Ark. 169; *Ellis* v. *Secor,* 31 Mich. 185; *Stephenson* v. *King,* 81 Ky. 425; *Stevens* v. *Stevens,* 2 Hun. 470. But if this class of cases keeps on growing, such cases will cease to be exceptions and become the best of all illustrations of that often quoted but hitherto little followed test of delivery, that it shall be as good as can be made under the circumstances.

INSURANCE—BREACH OF CONDITIONS.—The employment of mechanics in making repairs, and the use of a gasoline torch in removing old paint, which directly causes the loss, does not as a matter of law avoid the policy. *Lebanon County* v. *Franklin Fire Insurance Co. of Philadelphia,* (Penn. 1912) 85 Atl. 419.

The principles underlying this decision are in accord with the authorities. Thus, (1) whether there was an increased "hazard" is for the jury to determine. *Poole* v. *Ins. Co.,* 91 Wis. 530, 65 N. W. 54, 51 Am. St. Rep. 919; II COOLEY, BRIEFS ON INSURANCE, 1495. (2) The condition against "repairs" is not broken if the jury finds that those made were consistent with proper care and preservation of the premises, *First Cong. Church* v. *Holyoke Ins. Co.,* 158 Mass. 475, 19 L. R. A. 587; MAY INS. §224. Although under the Standard Policy the test of "reasonableness" of the repairs has been held to be superseded by the provision for fifteen days for repairs, *German Ins. Co.* v. *Hearne,* 117 Fed. 289, 54 C. C. A. 527, 59 L. R. A. 492, certiorari